

In the Matter of:

Bernadette and Pradel Bonnet,

Petitioners

HUDBCA No. 04-D-NY-EE005

Claim No. 7-802224170A

HUDBCA No. 04-D-NY-EE006

Claim No. 7-802224170B

Bernadette and Pradel Bonnet
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Pro se

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For the Secretary

DECISION AND ORDER ON ADMINISTRATIVE OFFSET

Petitioners were notified by Due Process Notice that, pursuant to 31 U.S.C. § 3720A, the Secretary of the U.S. Department of Housing and Urban Development ("HUD") intended to seek administrative offset of any Federal payments due to Petitioners in satisfaction of a delinquent and legally enforceable debt allegedly owed to HUD. The claimed debt has resulted from a defaulted loan that was insured against nonpayment by the Secretary pursuant to Title I of the National Housing Act. (12 U.S.C. § 1703).

Petitioners have made a timely request for a hearing concerning the existence, amount or enforceability of the debt allegedly owed to HUD. The Administrative Judges of this Board have been designated to conduct a hearing to determine whether the debt allegedly owed to HUD is legally enforceable. (24 C.F.R. § 17.152(c)). As a result of the Petitioners' request, referral of the debt for offset was temporarily stayed by the Board.

Summary Of Facts And Discussion

On August 23, 1996, Petitioners executed and delivered to Imperial Remodelers an installment note in the amount of \$16,441.00 for a property improvement loan that was insured against non-payment by the Secretary pursuant to the National Housing Act, 12 U.S.C. § 1703. (Secretary's Statement, hereinafter "Secy. Stat.," Exh. A). Petitioners failed to make payments as agreed to on the note. (Secy. Stat., Exh. C, Declaration of Brian Dillon, hereinafter "Dillon Decl.," ¶ 3). Subsequently, 21st Century Mortgage assigned the note to the United States of America in accordance with 24 C.F.R. § 201.54. Id. The Secretary is the holder of the note on behalf of the United States. Id. Petitioners are indebted to the Secretary in the following amounts: \$15,428.25 as the unpaid principal balance as of November 30, 2003; \$3,815.98 as the unpaid interest on the principal balance at 5% per annum through November 30, 2003; and interest on said principal balance from December 1, 2003, at 5% per annum until paid. Id., at 4.

Petitioners contend that they do not owe this debt. In support of this contention, Petitioners allege that they "never borrowed, or never got any loan from nobody." (Petitioners' letter, dated December 29, 2003).

The Secretary has filed a Statement with documentary evidence in support of his position that Petitioners are indebted to the Department in a specific amount. Petitioners however have failed to comply with the Board's Notice of Docketing, Order and Stay of Referral directing Petitioners to file with the Board "any documentary evidence which will prove that all or part of the alleged debt is either unenforceable or not past due." (Notice of Docketing, Order and Stay of Referral, dated December 8, 2003).

Petitioners have submitted no persuasive documentary evidence to substantiate their claim that they do not owe the debt. Therefore, the Secretary's Statement and the allegations contained therein stand unrefuted. Without evidence the Petitioners' allegation that they do not owe this debt must fail for lack of proof.

ORDER

There being no evidence to the contrary, I find that the debt which is the subject of this proceeding is legally enforceable against Petitioners in the amount claimed by the Secretary. The Order imposing the stay of referral on this matter to the IRS or to the U.S. Department of Treasury for administrative offset is vacated.

It is hereby ORDERED that the Secretary is authorized to seek collection of this outstanding obligation by means of

administrative offset of any eligible Federal payments due to
Petitioners.

Jerome M. Drummond
Administrative Judge

March 17, 2004